

Notice of Allowability	Application No.	Applicant(s)	
	09/966,982	LEHMAN ET AL.	
	Examiner	Art Unit	
	Deborah K. Ware	1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/27/04.
2. ☒ The allowed claim(s) is/are 1-5,10,12-16,18-24 and 29-35.
3. ☒ The drawings filed on 27 September 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on September 30, 2004, Michelle Samonek requested an extension of time for 1 MONTH(S) and authorized the Director to charge Deposit Account No. 50-2767 the required fee of \$110.00 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the title

Changed the title to – METABOLITE FROM STREPTOMYCES STRAIN NRRL
ACCESSION NO. B-30145 AND MUTANTS THEREOF FOR CONTROLLING PLANT
DISEASES --.

In the claims

Claim 1, line 1, deleted "An" and inserted –A composition comprising at least
one--;

Claim 2, line 1, deleted first occurrence of "metabolite" and inserted –
composition—and further deleted "or claim 40"

Claim 3, line 1, deleted first occurrence of "metabolite" and inserted –
composition--;

Claim 4, line 1, deleted first occurrence of "metabolite" and inserted – composition—and further deleted "or claim 40";

Claim 5, line 1, deleted first occurrence of "metabolite" and inserted – composition—;

Claim 10, line 1, deleted first occurrence of "metabolite" and inserted – composition—and further deleted "or claim 40";

Claim 12, line 1, deleted "A" and inserted –The—and after "composition" inserted –of claim 1 further--, and after "comprising" deleted "the metabolite of claim 1 or claim 40 and";

Claim 13, line 1, deleted "A" and inserted –The—and after "composition" inserted –of claim 1—and further deleted "of claim" and inserted –and--,

, line 2, deleted "1 or claim 40 and" ;

Claim 18, line 2, deleted "metabolite" and inserted –composition—and deleted "or claim",

, line 3, deleted "40" ;

Claim 20, line 1, deleted "further comprising applying an" and inserted –wherein the composition contains more than one metabolite.--,

, lines, 2-3, deleted;

Claim 21, line 1, after "metabolite" inserted –of the composition--;

Claim 23, line 1, after "metabolite" deleted "if" and inserted –of the composition is--;

Claim 29, line 1, deleted "metabolite" and inserted –composition--;

Claim 31, line 2, deleted "of claim 1 or claim 40";

Claim 32, line 1, deleted "metabolite" and inserted --composition--,

, line 2, after "claim 1" inserted --wherein the metabolite is--;

Claim 34, line 1, before "composition" inserted --antifungal--;

Claim 35, line 1, before "composition" inserted --antifungal--;

Claim 40, canceled;

Claim 41, canceled; and

Claim 42, canceled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

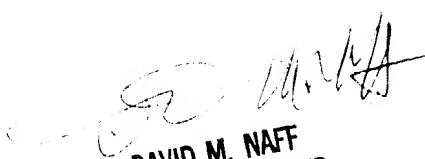
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Deborah K. Ware
September 29, 2004


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 1651